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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,658	10/09/2001	Fu Chen	10133	1375

28006 7590 08/01/2006

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EXAMINER	
YOON, TAE H	

ART UNIT	PAPER NUMBER
1714	

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Communication Re: Appeal	Application No. 09/976,658	Applicant(s) CHEN ET AL.	
	Examiner Tae H. Yoon	Art Unit 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☒ The Notice of Appeal filed on *August 3, 2005* is not acceptable because:

 (a) ☐ it was not timely filed.

 (b) ☐ the statutory fee for filing the appeal was not submitted. See 37 CFR 41.20(b)(1).

 (c) ☐ the appeal fee received on _____ was not timely filed.

 (d) ☐ the submitted fee of $_____ is insufficient. The appeal fee required by 37 CFR 41.20(b)(1) is $_____.

 (e) ☒ the appeal is not in compliance with 37 CFR 41.37 ~~31(a)(1) in that no claim has been twice rejected.~~

 (f) ☐ a Notice of Allowability, PTO-37, was mailed by the Office on _____.

2. ☐ The appeal brief filed on _____ is NOT acceptable for the reason(s) indicated below:

 (a) ☐ the brief and/or brief fee is untimely. See 37 CFR 41.37(a).

 (b) ☐ the statutory fee for filing the brief has not been submitted. See 37 CFR 41.20(b)(2).

 (c) ☐ the submitted brief fee of $_____ is insufficient. The brief fee required by 37 CFR 41.20(b)(2) is $_____.

The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. See 37 CFR 41.37(a)(1). Extensions of time may be obtained under 37 CFR 1.136(a). See 37 CFR 41.37(e).

3. ☐ The appeal in this application is DISMISSED because:

 (a) ☐ the statutory fee for filing the brief as required under 37 CFR 41.20(b)(2) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.

 (b) ☐ the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.

 (c) ☐ a Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on _____.

 (d) ☐ other: _____.

4. ☐ Because of the dismissal of the appeal, this application:

 (a) ☐ is abandoned because there are no allowed claims.

 (b) ☐ is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.

 (c) ☐ is before the examiner for consideration.

TAE H. YOON
PRIMARY EXAMINER

Appellants filed an Appeal Brief on August 3, 2005, The brief appears to have been filed under the old rules as per 37 CFR 1.192 (abolished September 13, 2004) and is not in compliance with new rules under 37 CFR 41.37. See 37 CFR 41.37 for a proper format and requirement.

Note particular examples of discrepancies in the brief in the instant application in reference to section heading in said 37 CFR 41.37 are:

1. Appellants heading "SUMMARY OF INVENTION" should be 41.37 heading "(v) *Summary of claimed subject matter*", and contain the appropriate content;

2. Appellants heading "THE ISSUES" should be 41.37 heading "(vi) *Grounds of rejection to be reviewed on appeal*"; and

3. The appendices "*(ix) Evidence Appendix*" and "*(x) related Proceedings Appendix*" are missing from the brief and should be added.

All of the requisite headings and appendices noted above are to be placed within appeal briefs filed under 37 CFR 41.37, (whether or not there is any matter relative to these headings) with "None" or similar text indicating that there is none placed beneath the heading tha is the case.

See URL: www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tae H. Yoon whose telephone number is (571) 272-1128. The examiner can normally be reached on Mon-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tae H Yoon
Primary Examiner
Art Unit 1714

THY/July 24, 2006